



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,717	02/15/2005	Gregory L Malchow	18,450	8344

23556 7590 01/17/2007
KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/17/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/17/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Kimberly-Clark.Docket@kcc.com
catherine.wolf@kcc.com

SP

Office Action Summary

Application No.

10/524,717

Applicant(s)

MALCHOW ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/2/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 – 26 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Surprise et al. (US 2002/0058923).

With reference to claim 1, Surprise discloses a disposable absorbent article including two lateral edges, two longitudinal edges, a front waist region, a back waist region and a crotch region interconnecting the front waist region and back waist region, (figure 1); the disposable absorbent article further comprising: a bodyside liner; an outer cover; an absorbent core located between the bodyside liner and the outer cover page 3, [0029]; and an ear portion attached by a plurality of bond elements (90) to one longitudinal edge, wherein the bond elements form a bond pattern which defines a bond pattern area as set forth in the figures.

The limitations regarding the Percent Stretch of the Bond Pattern Area are considered functional limitations because they lack structure and attempt to define the invention by how it performs and not what it is. Therefore, the examiner contends that based on the identical structure of Surprise and the claimed invention, one could reasonably assume that the structure of Surprise would have a Percent Stretch of the Bond Pattern Area identical to that claimed.

Art Unit: 3761

Alternatively, it would have been obvious to one of ordinary skill in the art to modify the Percent Stretch of the Bond Pattern Area in order to determine the most effective product since it has been held that where the general conditions of a claim (i.e. an ear portion attached by a plurality of bond elements) have been disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art.

As to claims 2, 5 – 7 and 15, see the rejection of claim 1.

Regarding claims 3 and 14, Surprise discloses a disposable absorbent article wherein the bond elements are ultrasonic bond elements as set forth on page 10, [0086].

As to claim 4, Surprise discloses a disposable absorbent article wherein the bond elements have a circular shape as set forth in the figures.

Regarding claims 8 – 13 and 16 – 19, see the rejection of claims 2 and 5 – 7. Likewise, the examiner contends that any and all areas of the article may be considered in order to meet the claimed limitations.

As to claim 20, Surprise discloses a disposable absorbent article where the ear portion is also attached to the longitudinal edge with multiple individual adhesive ribbons (70) as set forth in figures 2 – 3.

It would have been obvious to one of ordinary skill in the art to modify the width of the ribbons in order to determine the most effective product since it has been held that where the general conditions of a claim have been disclosed in the prior art,

discovering the optimum or workable range involves only a level of ordinary skill in the art.

As to claim 21, Surprise discloses a disposable absorbent article including two lateral edges, two longitudinal edges, a front waist region, a back waist region and a crotch region interconnecting the front waist region and back waist region (figure 1), the disposable absorbent article further comprising: a bodyside liner; an outer cover; an absorbent core located between the bodyside liner and the outer cover on page 3, [0029]; and an ear portion attached by a plurality of ultrasonic bonds (90) to one longitudinal edge of the disposable absorbent article, wherein the ultrasonic bonds form a bond pattern and wherein the bond pattern includes two or more pairs of longitudinal rows of bond elements, wherein the longitudinal rows of bond elements are offset in the longitudinal direction from of a longitudinal length of an individual bond element as set forth in figure 3.

It would have been obvious to one of ordinary skill in the art to modify the percent of offset of the rows, if necessary, in order to determine the most effective product since it has been held that where the general conditions of a claim have been disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art.

With reference to claims 22 – 24, it would have been obvious to one of ordinary skill in the art to provide additional rows of bond elements since it has been held that the mere duplication of essential working parts of a device are within the level of ordinary skill in the art.


Art Unit: 3761

As to claims 25 and 26, see the rejection of claim 21.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Michele Kidwell
Primary Examiner
Art Unit 3761